

Exhibit 5

2/17/2023

**UNITED STATES DISTRICT COURT FOR THE NORTHERN
DISTRICT OF ILLINOIS, EASTERN DIVISION**

FATIMAH TOTTEN,)
Plaintiff,)
-vs-) **No. 1:20-cv-06107**
BENEDICTINE UNIVERSITY,)
Defendant.)

**The discovery deposition of
TAMMY SARVER, called by the plaintiff for
examination, taken pursuant to the Federal Rules
of Civil Procedure of the United States District
Courts pertaining to the taking of depositions,
taken before CARLA P. LETELLIER, a C.S.R. and
Registered Professional Reporter within and for
the County of Lake, State of Illinois, taken via
Zoom conference, commencing at the hour of
approximately 9:00 a.m. on the 17th day of
February 2023.**

FATIMAH TOTTEN VS BENEDICTINE UNIVERSITY

TAMMY SARVER

2/17/2023

26 (Pages 98 to 101)

<p style="text-align: right;">98</p> <p>1 coordinator, remove Mr. Dixon from student 2 housing pending the investigation of 3 Ms. Totten's Title IX complaint? 4 A. No, that also had to come out of 5 Student Life. 6 Q. Could you, as Title IX coordinator 7 for Ms. Totten's Title IX complaint, have 8 asked Mr. Dixon to refrain from texting 9 Ms. Totten? 10 A. No. 11 Q. All right. So just returning to our 12 Sarver Exhibit 9 here, you go on to write: [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] 17 Do you see that? 18 A. Yes. 19 Q. Okay. And is the Benedictine 20 University Police Department report you're 21 referring to there the report reflecting 22 Ms. Totten's December 3, 2018, report of being 23 sexually assaulted by Marquis Dixon three 24 times?</p>	<p style="text-align: right;">100</p> <p>1 BY THE WITNESS: 2 A. I mean, I was made aware when I was 3 made aware. 4 BY MS. GALKA: 5 Q. As Title IX coordinator and under 6 Benedictine's Title IX policy, how quickly 7 should you have been made aware of 8 Ms. Totten's complaint that she had been 9 sexually assaulted to the Benedictine police 10 department? 11 A. A reasonable amount of time. And 12 that's also operating under the assumption that 13 at that first level of intake she was also 14 provided with the information and the resources. 15 Q. All right. When you say a reasonable 16 amount of time, what is a reasonable amount of 17 time to you as the Title IX coordinator? 18 A. Do you mean how -- in my dream how, 19 like, long I'd want something -- how long I'd 20 want somebody to wait to tell me something? 21 Q. You just testified that the amount of 22 time it should take should be a -- 23 A. Yeah. 24 Q. (Continuing.) -- reasonable amount of</p>
<p style="text-align: right;">99</p> <p>1 A. I believe so. 2 Q. And how were you made aware of that 3 report, specifically? 4 A. That one? It either came to me 5 through Marco or the police department itself. 6 Q. Okay. Do you recall specifically 7 whether the police department sent you the 8 report or if Mr. Masini sent you the report? 9 A. What I think happened was it came from 10 one of them with the other cc'd. 11 Q. Okay. 12 A. You know what I mean? 13 Q. Yeah. So it sounds like, to the best 14 of your recollection, you received it from one 15 of them -- 16 A. Yes, one or both. One or both. 17 Q. Thank you. 18 The night that Ms. Totten 19 reported to the Benedictine University police 20 that she was sexually assaulted at -- three 21 times, that's when you should have been made 22 aware that there was a complaint of sexual 23 assault; correct? 24 MR. FRAMBES: Objection to form.</p>	<p style="text-align: right;">101</p> <p>1 time. So I'm just wanting to know, to you as 2 the Title IX coordinator, what is a reasonable 3 amount of time? 4 MR. FRAMBES: Objection. Calls for 5 speculation. 6 BY THE WITNESS: 7 A. I don't know. 8 All I know, it was our policy and 9 always is our policy that the first level of 10 intake provide the survivor with the resources 11 for survivor -- resources for survivors until 12 that information gets conveyed to me. 13 BY MS. GALKA: 14 Q. Thank you. Not quite my question. 15 So as the Title IX coordinator at 16 Benedictine University -- 17 A. Hm-hmm. 18 Q. (Continuing.) -- am I understanding 19 you correctly that you have no idea what a 20 reasonable amount of time is in the context of 21 how long it takes from a student reporting to 22 the police that she had been sexually 23 assaulted to the Title IX coordinator being 24 made aware of it?</p>

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TAMMY SARVER

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38 (Pages 146 to 149)

<p style="text-align: right;">146</p> <p>1 exactly when you told her that?</p> <p>2 A. No.</p> <p>3 Q. Okay.</p> <p>4 MR. FRAMBES: I'm going to request</p> <p>5 that we take a break. Can I get five minutes,</p> <p>6 Margaret?</p> <p>7 MS. GALKA: Sure. And let's just make</p> <p>8 it ten.</p> <p>9 Thanks, Carla. Ten minutes,</p> <p>10 please.</p> <p>11 (Recess taken.)</p> <p>12 MS. GALKA: We are back on the record.</p> <p>13 Q. Dr. Sarver, what did you do to</p> <p>14 prepare for your deposition today?</p> <p>15 A. Not a lot. I refreshed my</p> <p>16 recollection of, you know, some of the emails or</p> <p>17 some of the notes and -- I mean, not a lot.</p> <p>18 Can't expect what's coming.</p> <p>19 Q. Can you give me a list of documents</p> <p>20 that you recall reviewing in preparation for</p> <p>21 your deposition?</p> <p>22 A. I looked back at the report, the final</p> <p>23 report I wrote. And I looked back at the</p> <p>24 statements of Fatimah and Dixon.</p>	<p style="text-align: right;">148</p> <p>1 reached out to Fatimah. I looked back to see if</p> <p>2 there were email communications with the police,</p> <p>3 and all that I could come up with with police</p> <p>4 communications were when I got that ultimate</p> <p>5 report. And so that's what I reviewed.</p> <p>6 Q. Okay. The police communications, can</p> <p>7 you describe those as specifically as</p> <p>8 possible?</p> <p>9 A. Whenever -- I guess December 3rd,</p> <p>10 whenever -- that one was received -- remember,</p> <p>11 you asked me if I got it from Marco or if I got</p> <p>12 it from the police department? That's when I</p> <p>13 got information. And then -- that's what I got</p> <p>14 from the police, when I got the police reports.</p> <p>15 Q. Okay. Did you speak with anybody to</p> <p>16 prepare for your deposition today?</p> <p>17 A. Yes, I spoke with my attorney.</p> <p>18 Q. Okay. I don't want to know what you</p> <p>19 spoke about, but I would like to know for how</p> <p>20 long did you speak to your attorney prior to</p> <p>21 this deposition?</p> <p>22 A. About an hour and a half.</p> <p>23 Q. And on what day did you speak with</p> <p>24 your attorney?</p>
<p style="text-align: right;">147</p> <p>1 Q. Do you maintain a file or a</p> <p>2 collection of documents related to</p> <p>3 Ms. Totten's Title IX investigation?</p> <p>4 A. I do.</p> <p>5 Since I took the role, I have a --</p> <p>6 like a locked drawer where I keep copies of all</p> <p>7 the final reports cases that went to final</p> <p>8 report. And they're also in a -- like I created</p> <p>9 an email folder in my own email account called</p> <p>10 Title IX.</p> <p>11 Q. Okay.</p> <p>12 A. But I don't know -- yeah, that's my</p> <p>13 practice. I don't know what the practice was.</p> <p>14 Q. Sure, sure. Did you review</p> <p>15 everything in your electronic and drawer file</p> <p>16 on Ms. Totten prior to this deposition?</p> <p>17 A. As much as I could considering my</p> <p>18 other 900 jobs.</p> <p>19 Q. Okay. And can you tell me, with as</p> <p>20 much specificity as you can, which emails that</p> <p>21 you reviewed prior to your deposition today?</p> <p>22 A. Yes.</p> <p>23 I reviewed the one that -- with the</p> <p>24 standard language that I sent when I originally</p>	<p style="text-align: right;">149</p> <p>1 A. We met for maybe a half an hour</p> <p>2 yesterday. And then about three weeks ago, we</p> <p>3 met for about an hour.</p> <p>4 Q. And then one more question here on</p> <p>5 kind of the background.</p> <p>6 Did -- have you in the past --</p> <p>7 let me strike that.</p> <p>8 Since 2020, have you been asked</p> <p>9 to search your cell phone for text messages</p> <p>10 related to Ms. Totten's Title IX complaint?</p> <p>11 A. Have I been asked, no.</p> <p>12 Q. Did you search for text messages</p> <p>13 related to Fatimah's Title IX complaint prior</p> <p>14 to your deposition?</p> <p>15 A. Personally? I don't think so. I'm</p> <p>16 not a big texter with students. I don't find</p> <p>17 that an appropriate means of communication,</p> <p>18 so -- I mean, I have my phone here. There are</p> <p>19 no text messages.</p> <p>20 Q. Okay. So fair to say you never</p> <p>21 turned over any texts to your attorney; is</p> <p>22 that right?</p> <p>23 A. Yes, that's right. I never turned</p> <p>24 over texts.</p>